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7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA  
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10 NATH & ASSOCIATES, PLLC,

11 Plaintiff,

12 v.

13 HARTFORD CASUALTY INSURANCE  
14 COMPANY,

15 Defendant.

Civil No. 08cv1567-L(JMA)

**ORDER DENYING PLAINTIFF'S  
EX PARTE APPLICATION FOR  
RECONSIDERATION**

16 This insurance bad faith action was filed on August 25, 2008. On September 19, 2008  
17 and prior to the service of the complaint, Plaintiff filed a motion for partial summary judgment.  
18 On September 23, the court ordered the motion stricken for failure to comply with the Local  
19 Rules and Electronic Case Filing Administrative Policies and Procedures, *see* Civ. Local Rule  
20 5.4(f), and because it was filed before Defendant had been served. On September 26, Plaintiff  
21 affected service. On September 30, Plaintiff filed pursuant to Federal Rule of Civil Procedure  
22 60(b)(6) an ex parte application to reconsider the order striking its motion.

23 Federal Rule of Civil Procedure 60(b)(6) provides, "On motion and just terms, the court  
24 may relieve a party . . . from a[n] . . . order . . . for the following reasons: . . . (6) any other  
25 reason that justifies relief." It is within the court's discretion to grant or deny a Rule 60(b)  
26 motion. *United States v. Alpine Land and Reservoir Co.*, 984 F.2d 1047, 1049 (9th Cir. 1993).  
27 Subsection (6) "acts as a catch-all." *Hamilton v. Newland*, 374 F.3d 822, 825 (9th Cir. 2004). It  
28 has been "used sparingly and as an equitable remedy to prevent manifest injustice." *Id.* (internal

1 quotation marks and citation omitted). A party is entitled to relief under Rule 60(b)(6) if he  
2 demonstrates “extraordinary circumstances” to justify relief. *Straw v. Bowen*, 866 F.2d 1167,  
3 1172 (9th Cir. 1989).

4 The ex parte application is **DENIED** because Plaintiff has not suffered any manifest  
5 injustice and points to no extraordinary circumstances to justify relief. Plaintiff may re-file its  
6 motion in compliance with Civil Local Rules and Electronic Case Filing Administrative Policies  
7 and Procedures.<sup>1</sup>

8 **IT IS SO ORDERED.**

9  
10 DATED: October 16, 2008

11   
12 M. James Lorenz  
United States District Court Judge

13 COPY TO:

14 HON. JAN M. ADLER  
UNITED STATES MAGISTRATE JUDGE

15 ALL PARTIES/COUNSEL  
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28 <sup>1</sup> Pursuant to Civil Local Rule 7.1(b), Plaintiff will need to obtain a hearing date  
prior to re-filing its motion.